

§216.166

has received equivalent formal education, as determined by the NMFS Assistant Administrator), an examination and recovery of any dead or injured marine mammals will be conducted in accordance with protocols and best practices of the NOAA Health and Stranding Response Program. Necropsies will be performed and tissue samples taken from any dead animals. After completion of the necropsy, animals not retained for shoreside examination will be tagged and returned to the sea.

(e) Activities related to the monitoring described in paragraphs (c) and (d) of this section, including the retention of marine mammals, may be conducted without a separate scientific research permit. The use of retained marine mammals for scientific research other than shoreside examination must be authorized pursuant to Subpart D of this part.

(f) Subject to relevant Navy regulations, the National Marine Fisheries Service at its discretion may place an observer on any ship or aircraft involved in marine mammal monitoring either prior to, during, or after explosives detonation.

(g) A final report must be submitted to the Director, Office of Protected Resources, no later than 120 days after completion of the USS MESA VERDE (LPD 19) shock trial. This report must contain the following information:

(1) Date and time of all detonations conducted under the Letter of Authorization.

(2) A detailed description of all pre-detonation and post-detonation activities related to mitigating and monitoring the effects of explosives detonation on marine mammals.

(3) Results of the monitoring program, including numbers by species/stock of any marine mammals noted injured or killed as a result of the detonation and an estimate of the number, by species, of marine mammals in the Safety Range at the time of detonation based on post-test aerial monitoring and current density estimates.

(4) Results of coordination with coastal marine mammal/sea turtle stranding networks.

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§216.166 Modifications to the Letter of Authorization.

(a) Except as provided in paragraph (b) of this section, no substantive modification, including withdrawal or suspension, to a Letter of Authorization issued pursuant to §216.106 and subject to the provisions of this subpart shall be made until after notice and an opportunity for public comment.

(b) If the Assistant Administrator determines that an emergency exists that poses a significant risk to the well-being of the species or stocks of marine mammals specified in §216.151(b), the Letter of Authorization may be substantively modified without prior notification and an opportunity for public comment. Notification will be published in the FEDERAL REGISTER subsequent to the action.

Subpart P—Taking Marine Mammals Incidental to U.S. Navy Training in the Hawaii Range Complex (HRC)

SOURCE: 74 FR 1484, Jan. 12, 2009, unless otherwise noted.

EFFECTIVE DATE NOTE: At 74 FR 1484, Jan. 12, 2009, subpart P was added, effective Jan. 5, 2009 through Jan. 5, 2014.

§216.170 Specified activity and specified geographical region.

(a) Regulations in this subpart apply only to the U.S. Navy for the taking of marine mammals that occurs in the area outlined in paragraph (b) of this section and that occurs incidental to the activities described in paragraph (c) of this section.

(b) The taking of marine mammals by the Navy is only authorized if it occurs within the Hawaii Operational Area, which extends from 16 to 43° N. lat. and from 150 to 179° degrees W. long.

(c) The taking of marine mammals by the Navy is only authorized if it occurs incidental to the following activities:

(1) The use of the following mid-frequency active sonar (MFAS) and high frequency active sonar (HFAS) sources, or similar sources, for Navy training activities (estimated amounts below):